



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

NW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,617	02/27/2002	Israel Rozenboim	293.00050101	7945

26813 7590 12/18/2002

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

EXAMINER

SHAW, ELIZABETH ANNE

ART UNIT	PAPER NUMBER
3644	

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Office Action Summary</i>	Application No.	Applicant(s)
	10/087,617	ROZENBOIM, ISRAEL
	Examiner	Art Unit
	Elizabeth A. Shaw	3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 February 2002 .

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 9-11,22,23,36-38 and 49-51 is/are allowed.

6) Claim(s) 1-4,8,12-16,20,21,24-29,33-35,39-43,47 and 48 is/are rejected.

7) Claim(s) 5-7,17-19,30-32 and 44-46 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

2) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, 12-16, 20, 21, 24-29, 33-35, 39-43, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson (5,575,237) in view of Schonberg (4,625,728). Ferguson teaches a method of hatching avian/chicken eggs by exposing the eggs to intermittent environmental changes to induce changes in the embryos, see column 5, lines 44-60. Schonberg teaches a method of exposing poultry to monochromatic light to affect the behavior and life cycles of the poultry. With respect to claims 1, 12, 13, 25, 26, 39 and 40, to use the light of Schonberg with the environment altering method of Ferguson would have been obvious to one skilled in the art in order to influence the embryo in other areas or for alternate characteristics. With respect to claims 2-4, 14-16, 27-29 and 41-43, to shorten the time of the intermittent period of the combination of Ferguson and Schonberg would have been obvious to one skilled in the art in order to influence the embryo in other areas or for alternate characteristics. With respect to claim 35, to look for a specific increase of the breast muscle of the chicken using the combined methods of Ferguson and Schonberg would have been obvious to one skilled in the art in order to increase the marketability of the poultry.

Allowable Subject Matter

Claims 5-7, 17-19, 30-32 and 44-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-11, 22-23, 36-38 and 49-51 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Included for further reference in egg treatments are: Christensen (4,604,968), Robel (4,973,595) and Perry (5,011,780).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 703-308-1853. The examiner can normally be reached on M-Th 9:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.



Elizabeth Shaw
December 10, 2002